

Notice of Allowability

Application No.

10/573,894

Applicant(s)

PIZZORNO ET AL.

Examiner

Tina M. Wong

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 18-34.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☒ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 3/29/06 & 5/8/07 & 8/17/07.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted by the International Bureau under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Acknowledgment is made of applicant's claim for foreign priority. It is noted, however, that applicant/International Bureau has **not filed** a certified copy of the application as required by 35 U.S.C. 119(b). Therefore, priority is not granted until the papers are filed in a timely manner.

Examiner's Statement of Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art of record fails to disclose or reasonably suggest an optical fiber cable having all of the following characteristics:

- A. a central strength member
- B. a number of loose tubes containing fibers
- C. a protective outer jacket
- D. a filling coefficient of optical fibers in at least one loose tube being $\geq 45\%$
- E. the tubes comprising a material with an elasticity ≥ 700 MPa and
- F. the optical fibers having a microbending sensitivity $\leq 4.9 \text{ dB}\cdot\text{km}\cdot 1/\text{g}\cdot\text{mm}^{-1}$ at a temperature about -30° to $+60^{\circ}\text{C}$ at about 1500 nm.

A close prior art of record is U.S. Patent Application Publication 2005/0207715 to Roba et al. Roba et al teaches characteristics A, B, C, and F. Although Roba et al mentions characteristic E briefly, Roba et al does not suggest or teach an elasticity value. Roba et al simply mentions a higher modular of elasticity at room temperature, however, provides no other

information as to what is meant by higher since higher is a relative term. Furthermore, Roba et al does not teach characteristic F, although does show loose tubes in the figures disclosed. Therefore, Roba et al does not teach all the necessary characteristics of the cable.

Another close art of record is U.S. Patent 6,681,071 to Newton et al. Newton et al teaches characteristics A, B, C and E. But Newton et al fails to mention any type of stress/strain or microbending value (characteristic F) as well as any type of filling coefficient value (characteristic D). Therefore, Newton et al also fail to teach all the necessary characteristics of the claimed cable.

Therefore, claims 18-34 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. None of the documents cited by the Examiner discloses or reasonably suggests the allowable subject matter discussed above.

The documents submitted by applicant in the Information Disclosure Statement have been considered and made of record. Note attached copy of form PTO-1449. None of the references submitted by Applicant discloses or reasonably suggest the allowable subject matter discussed above.

Inventorship

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Conclusion

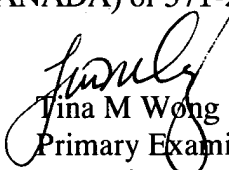
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tina M. Wong whose telephone number is (571) 272-2352. The examiner can normally be reached on Monday-Friday 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tina M Wong
Primary Examiner
Art Unit 2874